

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

11 SHELTER COVE MARINA, LTD., a California) Case No. 07-CV-0380-JAH (JMA)
12 Limited Partnership,)
13 Plaintiff,)
14 v.)
15 That Certain Sailing Vessel of Approximately 33)
16 Feet, 7 Inches in Length, Known As S/V)
17 FAFFALONIOUS, ex LOLLYGAG, California)
18 D.M.V. Registration No. CF 3517 TF, AND ALL)
19 OF HER ENGINES, TACKLE, ACCESSORIES,)
20 EQUIPMENT, FURNISHINGS AND)
21 APPURTENANCES, *in rem*; and SEAN)
22 HEWITT, an individual, *in personam*; and)
LAURA HORIVITZ, an individual, *in personam*;)
and BARON CADENCE, an individual *in*
personam,)
Defendants.)
)

ORDER DIRECTING VESSEL

SALE AND AUTHORIZING CREDIT BID

26 **CONSIDERING** the Motion of Plaintiff SHELTER COVE MARINA, LTD. for an
27 Order directing the public auction of the Defendant Vessel in this action, S/V
28 FAFFALONIOUS, ex-LOLLYGAG, California D.M.V. Registration No. CE 2517 TE, and

ORDER GRANTING MOTION FOR ORDER FOR
INTERLOCUTORY VESSEL SALE AND AUTHORIZATION TO CREDIT BID

1 all of her engines, tackle, accessories, equipment, furnishing and appurtenances and
2 authorizing Plaintiff to credit bid at such auction, and having considered all supporting and
3 opposing papers, and **GOOD CAUSE** therefor appearing,
4

5 **IT IS HEREBY ORDERED** that, consistent with Supplemental Admiralty Rule
6 E(9)(B) and Local Admiralty Rule E.1(e)(2), the United States Marshal be and hereby is
7 directed and empowered to sell said Defendant Vessel, her engines, tackle, accessories,
8 equipment, furnishings and appurtenances, as is, where is, at public sale at the first available
9 time and date, after having first caused notice of said sale to be published daily in a
10 newspaper of general circulation within the City of San Diego, California for at least six days
11 immediately before the date of sale; and
12

13 **IT IS FURTHER ORDERED** that such public notice specify the date, time and
14 location for the sale of the Defendant Vessel; and
15

16 **IT IS FURTHER ORDERED** that, consistent with Local Admiralty Rule E.1(e)(2),
17 such public notice specify that the last and highest bidder at the sale will be required to
18 deposit with the U.S. Marshal cash, certified check or a cashier's check in the amount of the
19 full purchase price not to exceed \$500, and otherwise \$500 or ten percent (10%) of the bid,
20 whichever is greater, and that the balance, if any, of the purchase price shall be paid in cash,
21 certified check or cashier's check before confirmation of the sale or within three days of
22 dismissal of any opposition which may have been filed, exclusive of Saturdays, Sundays and
23 legal holidays; and
24

25 **IT IS FURTHER ORDERED** that the proceeds of said sale be deposited by the
26 United States Marshal in the Registry of this Court, after the deduction of the Marshal's
27
28

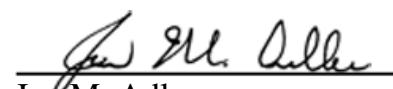
1 commission in accordance with 28 U.S.C. § 1921(c)(1), pending further order of this Court;

2 and

3 **IT IS FURTHER ORDERED** that Plaintiff, having a secured maritime lien interest
4 in the Defendant Vessel, and being the only claimant in this action asserting a maritime claim
5 against her, is authorized pursuant to Local Admiralty Rule C.1(e)(2) to credit bid at the
6 auction of the DEFENDANT VESSEL, without payment of cash, a sum equal to its secured
7 interest in the Defendant Vessel, consisting of the lien amount specified in the Verified
8 Complaint (\$10,955.67) plus costs of suit through the date of the sale, including U.S. Marshal
9 and other *custodia legis* expenses specified in Plaintiff's Motion for Interlocutory Vessel Sale
10 and Authorization to Credit Bid. As Plaintiff's secured interest in the Defendant Vessel does
11 not include attorneys' fees, they are not to be included in any credit bid Plaintiff makes. This
12 Order preventing Plaintiff from credit bidding its attorneys' fees to date is not intended to
13 implicate in any way claims for recovery of attorneys' fees that Plaintiff has asserted against
14 the in rem Defendants.

15 **IT IS SO ORDERED.**

16 DATED: August 6, 2007

17 
18 Jan M. Adler
19 U.S. Magistrate Judge